

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MALIK YOUNG-MOULTRIE

COMPLAINT
JURY TRIAL DEMANDED

Plaintiff,

-against-

POLICE OFFICER G PEREZ SHIELD #12078,
POLICE OFFICER J CALLENDER SHIELD # 29821,
UNIDENTIFIED NYPD SERGEANT, and
UNIDENTIFIED POLICE OFFICERS all sued
herein in their capacity as individuals,

Defendants.

Plaintiff Malik Young-Moultrie, by his attorneys, the Law Office of Fred Lichtmacher P.C. as and for his Complaint alleges the following.

This civil rights action arises from the unjustified use of excessive force, false arrest and failure to intervene by the defendants NYPD Police Officers G Perez shield #12078, J Callender Shield # 29821, Unidentified NYPD Sergeant and Unidentified NYPD Police Officers.

JURISDICTION AND VENUE

1. Jurisdiction is founded upon the existence of a Federal Question.
2. This action arises under 42 U.S.C. §1983 and the Fourth Amendment as made applicable to the states via the Fourteenth Amendment to the United States Constitution.
3. Subject matter jurisdiction is conferred pursuant to 28 U.S.C. §§ 1331 and 1333 (a) (3 & 4).
4. Pursuant to 28 U.S.C. §1331(a) (1 & 2) (b) (1 & 2), venue is proper in the Southern District of New York because events forming the basis of this Complaint occurred in this District.

PARTIES

5. At all times relevant, Plaintiff Malik Young-Moultrie, was a resident of the City and State of New York and New York County.
6. Upon information and belief, at all times hereinafter mentioned, the CITY OF NEW YORK (hereinafter, NYC) was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
7. Upon information and belief, that at all times hereinafter mentioned, NYC, its agents, servants and employees operated, maintained and controlled the New York City Police Department (hereinafter, the NYPD), including all the police officers thereof.
8. Defendants Police Officer G Perez shield #12078, Police Officer J Callender Shield # 29821, Unidentified NYPD Sergeant, and Unidentified Police Officers, were at all times relevant acting as NYPD officers and employees of NYC, and as state actors acting under color of law and are sued herein in their individual capacities.
9. This action arises under the United States Constitution, particularly under the provisions of the Fourth Amendment as made applicable to the states pursuant to the Fourteenth Amendment, as well as under the Civil Rights Act, Title 42 of the United States Code, Section 1983.

Nature of the Claim

10. On August 12, 2019 Plaintiff Malik Young-Moultrie received a call from his aunt informing him she needed help with an ill member of her family.
11. Plaintiff arrived before 1 pm, at his aunt's house at 2660 Frederick Douglas Blvd apt 6J in Manhattan and when he arrived, his aunt used his phone to call for the police.

12. When the Defendants arrived the Plaintiff answered the door and immediately, without saying anything, and without justification, the Defendants tased Plaintiff.
13. The taser prongs deployed into Plaintiff's torso and he fell to the ground injured and bleeding.
14. Plaintiff was immediately handcuffed by the Defendants including Police Officers G Perez and J Callender Shield who brought Plaintiff to Harlem Hospital still in handcuffs.



15. Just before entering the hospital the handcuffs were removed.
16. At Harlem Hospital the taser prongs were removed from Plaintiff's torso.
17. Plaintiff was not charged with a crime.
18. Plaintiff had not committed a crime, he did nothing to require any force being used against him, and he was subjected to excessive force and a false arrest without provocation.
19. Further, the telephone call made by Plaintiff's aunt described an Hispanic light skinned young man with short hair, and the Plaintiff is a dark skinned African-American male with braids.
20. The Unidentified NYPD Sergeant on the scene told the Plaintiff "you are lucky it was only a taser" after he was struck by the taser for no reason.

21. Despite knowing Plaintiff had not committed a crime, and that the Defendants had tased him unnecessarily, the supervisor at the scene Defendant Unidentified NYPD Sergeant, allowed Plaintiff to remain handcuffed until he arrived at Harlem Hospital.

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF PLAINTIFF
VIOLATION OF THE FOURTH AMENDMENT
VIA THE USE OF EXCESSIVE AND UNREASONABLE FORCE**

22. Plaintiff repeats, reiterates and realleges each and every allegation contained in the prior paragraphs with the same force and effect as is more fully and at length set forth herein.
23. Plaintiff's rights have been violated pursuant to the Fourth Amendment as made applicable to the states via the Fourteenth Amendment due to him being subjected to excessive and unreasonable force.
24. There was no reason to employ any force against Mr. Moultrie-Young much less the excessive and unreasonable force employed.
25. The police officers had no reason to tase Mr. Moultrie-Young, to bring him to the ground, or to roughly apply handcuffs to his wrists, and to demand he remain handcuffed until his arrival at Harlem Hospital.
26. The Defendants' actions caused Plaintiff to sustain physical injuries, he received medical treatment, he was bleeding, in pain, and he was otherwise harmed.
27. By reason of the aforesaid, the Plaintiff has been damaged and he is entitled to compensatory damages in a sum of not less than \$300,000.00 (THREE HUNDRED THOUSAND) DOLLARS and punitive damages in an amount to be determined at trial and Plaintiff is entitled to an award of attorneys' fees and costs pursuant to 42 USC §1988.

**AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF PLAINTIFF
VIOLATION OF THE FOURTH AMENDMENT
FALSE ARREST**

28. Plaintiff repeats, reiterates and realleges each and every allegation contained in the prior paragraphs with the same force and effect as is more fully and at length set forth herein.
29. Plaintiff's rights have been violated pursuant to the Fourth Amendment of the United States Constitution made applicable to the states by virtue of the Fourteenth Amendment and pursuant to 42 U.S.C. § 1983, due to his being falsely arrested by the Defendants.
30. The Plaintiff was confined by the Defendants; the Defendants intended to confine the Plaintiff; Plaintiff was conscious of his confinement; and the Plaintiff did not consent to the confinement which was not otherwise privileged.
31. As a direct consequence of defendants' actions, the Plaintiff was deprived of rights, privileges and immunities pursuant to the Fourth and Fourteenth Amendments of the United States Constitution and more particularly, his right to be free from arrest without probable cause.
32. Among other invasions of his privacy, offenses to his dignity, and violations of his rights, Plaintiff was subjected to being handcuffed, searched, confined, and being placed in handcuffs and he was otherwise harmed.
33. By reason of the aforesaid, the Plaintiff has been damaged and he is entitled to compensatory damages in a sum not less than \$300,000.00 (THREE HUNDRED THOUSAND) DOLLARS and punitive damages in an amount to be determined at trial and Plaintiff is entitled to an award of attorneys' fees and costs pursuant to 42 USC §1988.

**AS AND FOR A THIRD CAUSE OF ACTION
ON BEHALF OF PLAINTIFF
VIOLATION OF THE FOURTH AMENDMENT
VIA THE DEFENDANTS' FAILURE TO INTERVENE**

34. Plaintiff repeats, reiterates and realleges each and every allegation contained in the prior paragraphs with the same force and effect as is more fully and at length set forth herein.
35. Plaintiff's rights have been violated pursuant to the Fourth Amendment as made applicable to the states via the Fourteenth amendment due to him being subjected to excessive force, as well as a false arrest due in part to the Defendants' failure in their constitutional duty to intervene to prevent ongoing constitutional violations committed in their presence.
36. Defendants were aware of the violations of Plaintiff's rights occurring in their presence, they had a realistic opportunity to intervene to prevent the violations of Plaintiff's rights from continuing and they declined to do so.
37. The Defendants' actions and inactions caused Plaintiff to sustain physical injuries, he lost time at work, he received medical treatment and he was otherwise harmed.
38. By reason of the aforesaid, the Plaintiff has been damaged and he is entitled to compensatory damages in a sum not less than \$300,000.00 (THREEE HUNDRED THOUSAND) DOLLARS and punitive damages in an amount to be determined at trial and Plaintiff is entitled to an award of attorneys' fees and costs pursuant to 42 USC §1988.

WHEREFORE, Plaintiff respectfully requests that judgment be entered as follows:

(A) Declaratory relief finding that Plaintiff's rights under the United States Constitution were violated;

- (B) Compensatory damages to Plaintiff to be determined at trial in a sum not less than \$300,000.00 (THREE HUNDRED THOUSAND) DOLLARS;
- (C) By reason of the wanton, willful and malicious character of the conduct complained of herein, punitive damages against the individual Defendants in an amount to be determined at trial;
- (D) An award to Plaintiff of the costs and disbursements herein;
- (E) An award of attorneys' fees under 42 U.S.C. §1988; and
- (F) Such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 15, 2022

/s/

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